

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA

VS.

STEVEN MARSHALL BOEHNING

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CRIMINAL ACTION NO. H-11-340-009

ORDER

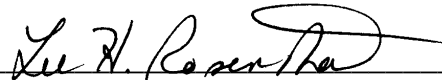
The defendant, Stephen Boehning, has moved to correct the court’s denial of his earlier motion seeking a sentence reduction under 18 U.S.C. § 3582(c)(2) and Amendment 782. Boehning argues that the court had the authority to sentence him below the 38-month prison term the court initially imposed. The court has considered his arguments and concludes that there is no legal basis for the relief he seeks.

A “court may reduce the term of imprisonment, after considering the factors set forth in section 3553(a) to the extent that they are applicable, if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission [emphasis added].” 18 U.S.C. § 3582(c)(2). The Guidelines Manual, at U.S.S.G. § 1B1.10 (b)(2)(A), Limitation and Prohibition on Extent of Reduction, and comment. (n. 3) (a policy statement), addresses the circumstances that the defendant presents—an original sentence that is below what the Guideline range would be if the retroactive amendments were applied. The defendant has not provided substantial assistance that would warrant a § 5K1.1 reduction and provide an exception to the Guidelines Limitation and Prohibition provision. In these circumstances, there is no ground for a further reduction. Nor does the record

reflect a principled basis for the court to exercise its discretion to reduce the defendant's sentence below 38 months.

The motion to correct, Docket Entry No. 731, is denied.

SIGNED on July 10, 2015, at Houston, Texas.



Lee H. Rosenthal
United States District Judge